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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|--|-------------|------------------------|------------------------------|------------------------|
| 10/534,971   | 10/25/2005  | Shelley-Anne Salisbury | M0025.0329/P329              | 1717                   |
| 24998  | 7590        | 11/21/2007             |                              |                        |
| DICKSTEIN SHAPIRO LLP<br>1825 EYE STREET NW<br>Washington, DC 20006-5403 |             |                        | EXAMINER<br>DOAN, ROBYN KIEU |                        |
|  |             |                        | ART UNIT<br>3732             | PAPER NUMBER           |
|  |             |                        | MAIL DATE<br>11/21/2007      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/534,971 | Applicant(s)<br>SALISBURY ET AL. |  |
|                              | Examiner<br>Robyn Doan        | Art Unit<br>3732                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 70-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's Amendment filed 5/29/2007 has been entered and carefully considered. Claims 70-75 have been amended. New claim 76 has been added. The terminal disclaimer filed 5/29/2007 has overcome the nonstatutory double patenting rejection. Limitations of amended claims 72-74 and new claim 76 have not been found to be patentable over prior art of record, therefore, claims 70-76 are rejected under the same and new ground rejections as set forth below.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 70, 71 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newlin.

With regard to claims 70, 71, 75, Newlin disclosed a hair clip (figs. 1 and 4) comprising a body (28), cylindrical jaws (14, 16, fig. 4) having teeth (18) extending therefrom in a cylindrical circumferential direction, wings portions (40) extending tangentially from the jaws, the jaws being pivotally connected to the body (at 30) defining laterally spaced axes about jaws pivot, the jaws define a substantially cylindrical volume (see fig. 4) for receiving hair, a spring (32) arrangement for biasing

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the jaws in closed position. Newlin fails to show part of the body being a substantially cylindrical shape, however, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the body and the jaws being a substantially cylindrical shape, since such a modification would have involved a mere change in the shape of the known component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Claims 72, 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newlin in view of Sartena (USP 6,135,125).

With regard to claims 72, 73, Newlin discloses the essential claimed invention as claimed in claims 70, 71, 75 as discussed above except for the teeth mesh or meet interdigitatedly in closed position. Sartena discloses a hair clip (figs. 1, 2) comprising a pair of jaws (11, 12) having teeth (16) mesh or meet interdigitatedly (see figs. 1 and 2). It would have been obvious to one having an ordinary skill in the art at the time the invention to construct the particular teeth configuration as taught by Sartena as an alternative way to grip the hair.

Claims 74 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newlin in view of Lloyd (USP 6,142,159).

With regard to claims 74, 76, Newlin discloses the essential claimed invention as claimed in claims 70, 71, 75 as discussed above except for the teeth mesh substantially

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in parallel in closed position. Lloyd discloses a hair clip (fig. 3) comprising a pair of jaws (11, 12) having teeth (13,14) mesh in parallel (see fig. 3). It would have been obvious to one having an ordinary skill in the art at the time the invention to construct the particular teeth configuration as taught by Lloyd as an alternative way to grip the hair.

### ***Response to Arguments***

Applicant has argued it would have not been obvious to alter the shape of the body of Newlin and it would teach away from the provision of the integral hairbrush hidden within the hairclip. This is not true, because one skill in the art would only change the upper part (26) of the body into the cylindrical shape and such modification would not ruin the hairbrush compartment neither the hairclip.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner  
Art Unit 3732

rkd  
November 14, 2007